

Michigan IV-D Child Support Manual
Michigan Department of Health and Human Services

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Table of Contents

1. Overview	2
2. Legal Requirements for IV-D-Enforceable Birth Expenses	2
2.1 Birth Expense Reimbursement	3
2.2 Non-Collectible Medicaid-Paid Birth Expenses.....	3
3. Medicaid-Paid Birth Expenses.....	4
3.1 Using the Birth Expense Decision Table to Identify Cases to Recommend for Birth Expenses	4
3.2 Obtaining the Birth Expense Amount From MDHHS Health Services and Family Support (HSFS).....	6
3.3 Two Types of Insurance Coverage	7
3.4 HSFS <i>Birth Expenses Request</i> Response Timeframes.....	10
3.5 Birth Expenses Recommendations.....	12
3.6 Challenges to the Birth Expense Amount on the BER.....	14
3.7 Calculating the IV-D Enforceable Amount	14
4. HSFS Response When Medicaid Will Not Pay Birth Expenses.....	18
5. Birth Expenses Not Paid by Medicaid.....	18
5.1 Determining the Amount Identified As Birth Expenses	18
5.2 Calculating the IV-D Enforceable Amount of the Father's Birth Expense Obligation	18
6. Automated Birth Expense Obligation Formula	19
7. Special Situations	20
7.1 Multiple Births	20
7.2 Multiple Court Orders for Birth Expenses	20
7.3 Birth Expense Obligations When There Is a Change in Custody.....	21
8. Birth Expense Obligation Proposal to the Court.....	22
9. Using the MiCSES <i>Document Generation</i> (DOGN) Screen for Orders	22
10.Deviations From the MCSF	22
11.Determining the Periodic Repayment Amount When Birth Expenses Are Ordered	23
12.Entering Birth Expense Obligations in MiCSES.....	23
12.1 Orders Entered After June 9, 2008.....	23
12.2 Orders Entered Before June 9, 2008.....	23
13.Providing Support Order Information to HSFS	24
14.Out-of-State Orders Containing Birth Expense Obligations	24
15.Refunds and Overcollections	25
15.1 Automated Medicaid Negative Offset Process	25
15.2 Overcollections by HSFS.....	25
16.Surcharge	26
17.Federal and State Tax Refund Offset Intercept on Birth Expense Obligations	26

[Exhibit 4.25E1: Birth Expense Decision Table](#)

[Exhibit 4.25E2: Birth Expenses Request \(DCH-0491\)](#)

[Exhibit 4.25E3: Poverty Level Comparison Chart 2017: hard copy representation](#)

[Exhibit 4.25E4: Birth Expense Obligation Formula 2017: hard copy representation](#)

1. Overview

Birth expenses¹ are the medical expenses connected to the mother's pregnancy and the birth of the child. According to Michigan law, both parents of a child born out of wedlock are responsible for the mother's pregnancy-related medical expenses that the court determines are reasonable and necessary.² These expenses are apportioned between the parents based on each parent's ability to pay in the same manner as medical expenses in the Michigan Child Support Formula (MCSF).³

IV-D programs are allowed to include a birth expense obligation in the child support order. To be IV-D enforceable, the obligation must be determined by applying the child support guidelines. The Michigan IV-D program created a birth expense calculation as required by the federal Office of Child Support Enforcement (OCSE).⁴ This birth expense calculation determines the amount of Medicaid-paid birth expenses that will be the father's birth expense obligation amount.

In Michigan, the father's birth expense obligation amount for a non-Medicaid-paid birth is the apportioned amount determined by applying the father's medical expense percentage to the total cost of the pregnancy and birth.

2. Legal Requirements for IV-D-Enforceable Birth Expenses

Birth expenses are considered medical support. Both state law and federal regulations require the amount of the birth expense apportioned to the parents be based on each parent's ability to pay. States must establish guidelines for the calculation of the birth expense obligations to comply with the IV-D program and for the obligation to be considered a "IV-D enforceable" amount.⁵

For an agency to be considered in compliance with the IV-D program and to determine a birth expense obligation amount that is IV-D enforceable, OCSE requires the IV-D agency to follow the state's IV-D guidelines or justify any deviation from the guidelines when seeking judgments for birth expenses. Birth expense obligations, like child support obligations, must be established using guidelines which, at a minimum:

¹ Birth expenses were previously referred to as "confinement expenses."

² Michigan Compiled Law (MCL) 722.712(3)(a) provides guidance on what is considered reasonable and necessary for Medicaid-paid births.

³ MCL 400.233(p).

⁴ [OCSE Policy Interpretation Question \(PIQ\) 07-01, Use of Federal Income Tax Refund Offset Program to recoup medical expenses or birthing expenses owed to a State.](#)

⁵ 45 Code of Federal Regulations (CFR) 302.56

- Take into consideration all earnings and income of the non-custodial parent (NCP);⁶
- Must be based on specific descriptive and numeric criteria and result in a computation of the support obligation; and
- Provide for the child(ren)'s health care needs through health insurance or other means in accordance with 45 CFR 302.56.⁷

2.1 Birth Expense Reimbursement

OCSE has clarified that federal law **prohibits** the state IV-D program from routinely establishing and enforcing 100 percent reimbursement of birth expense costs from the father.

The federal IV-D program initially intended to recoup as much as possible for government-provided assistance. However, that goal has changed over the years. The goal now is to make families self-sufficient.

When a state extends public assistance to custodial parties (CPs) through Temporary Assistance for Needy Families (TANF) or Medicaid, the state is not empowered to use the IV-D program to reimburse the **full** cost of that assistance from the other parent.⁸ However, using the IV-D program and the assignment process, the state **can** obtain reimbursement from the other parent for the amount (s)he would have paid to support the child but did not pay. When a parent applies for assistance, the parent assigns, as appropriate, all child support and medical support that (s)he should receive, or should have received, from the NCP. The support amount the NCP should pay is based on the child support guidelines that take into consideration all earnings and income of the NCP.

Birth expenses paid by Medicaid **can** be reimbursed by the NCP through the IV-D program, **but only** up to the amount that the NCP should have paid pursuant to the state's guidelines.

2.2 Non-Collectible Medicaid-Paid Birth Expenses

The Michigan IV-D program is required to establish policy and procedures compliant with state laws and federal rules and regulations. Calculation of the birth expenses and the resulting obligation must follow the state's IV-D guidelines in order to be enforceable under the IV-D program. The total obligation for birth expenses is apportioned between the parents according to the MCSF for medical expenses. However, when Medicaid pays the medical expenses in connection with the mother's pregnancy and the birth of the child,

⁶ Michigan law provides consideration of both parents' income when determining birth expense obligations (Ref: MCL 722.712).

⁷ OCSE PIQ 07-01

⁸ [OCSE Action Transmittal \(AT\) 93-04, Use of Presumptive Child Support Guidelines for Establishment of Support Awards/Collection of Unreimbursed Assistance.](#)

state law prohibits the court from ordering the mother to pay any of the obligation.⁹

3. Medicaid-Paid Birth Expenses

Michigan law encourages the recovery of government-provided assistance by the child support program. In the era of fiscal responsibility and closely monitored government spending, a key objective is to ensure parents reimburse the government – at least in part – for costs associated to the birth of their children when the parent can make such payments. The IV-D program is in the best position to help ensure that happens while also striving to accomplish its primary goal – helping families gain self-sufficiency.

3.1 Using the Birth Expense Decision Table to Identify Cases to Recommend for Birth Expenses

When Medicaid has paid birth expenses, the first step for IV-D workers is to determine whether it is appropriate for a case to include a birth expense obligation. A standard decision table, the [Birth Expense Decision Table](#) (Ref: [Exhibit 4.25E1](#)) is provided to assist IV-D workers in this task.¹⁰ The support specialist (SS) does not recommend that a case include a birth expense obligation; the Prosecuting Attorney (PA)¹¹ performs this function. However, supportive information is available to the SS, including access to IV-A information through Business Objects, which can help the IV-D establishment workers evaluate the case.¹²

IV-D staff use the Birth Expense Decision Table when deciding whether to recommend to the court a birth expense obligation amount.

The Birth Expense Decision Table takes into consideration the current living arrangement and economic situation of the parents and compares it to those conditions at the time the child was born. The decision table factors include whether the parents are living together and/or married currently or at the time the child was born and the receipt of public assistance and means-tested income. There is also consideration of incarcerated or disabled fathers for whom there is little probability of recovery of an arrearage amount.

Note: Between October 21, 2011 and July 15, 2013, the Office of Child Support (OCS) temporarily discontinued including Medicaid-paid birth

⁹ MCL 722.712(3)

¹⁰ The Birth Expense Decision Table was designed by the Establishment Work Improvement Team and subsequently approved by the Program Leadership Group.

¹¹ The PA is referenced here; however, some Friends of the Court (FOCs) also perform establishment functions. Ref: the Genetic Parentage Act (MCL 722.1461-722.1475) for more information on the FOC's ability to perform establishment functions.

¹² Ref: Subsection 3.2.1 of this manual section for information on how the SS communicates this information to the PA.

expense reimbursement in child support orders because the birth expense cost data was not consistently accurate or timely. The Michigan Department of Community Health (MDCH) Third Party Liability (TPL)¹³ group created new procedures in 2013 to address these issues. IV-D staff will not reconsider or review any child support orders entered during the suspension period.

3.1.1 SS Actions

A. Verifying and Providing Information

Prior to forwarding the court action referral (CAR) to the PA office, the SS will do all of the following:

1. Identify whether birth expenses are an issue related to the case;
2. Verify the mother was unmarried when the child was born;
3. Verify that Medicaid covered the mother's expenses for the birth of the child;
4. Review the Birth Expense Decision Table to determine how the factors apply to the case;
5. Provide information that supports the factors that apply to the case as reflected in the Birth Expense Decision Table, including:
 - a. Mother's receipt of public assistance at the time of the birth and currently;
 - b. The alleged father's or NCP's receipt of public assistance or disability payments at the time of the birth and currently;
 - c. Incarceration status of the alleged father or NCP, if available; and
 - d. Whether the alleged father or NCP lived or lives with the mother and whether the alleged father's or NCP's income was considered in TANF/Medicaid benefit calculations.
6. Submit a *Birth Expenses Request* (BER)¹⁴ to HSFS.

B. Documenting in IV-D Case Notes

Prior to forwarding the CAR to the PA office, the SS will also document in the IV-D case notes on the Michigan Child Support Enforcement System (MiCSES) *Notes Processor* (NOTE) screen:

¹³ The agency name "MDCH" is used here because this agreement was reached prior to the merger of the Department of Human Services (DHS) and MDCH. There are instances in this manual section where, for historical accuracy, MDCH is used instead of the post-merger name Michigan Department of Health and Human Services (MDHHS) Health Services and Family Support (HSFS). HSFS is the department within MDHHS that oversees medical assistance programs.

¹⁴ Ref: Subsection 3.2.1 of this manual section for information about the BER.

1. That the mother was unmarried at the time of the birth;
2. Child's date of birth;
3. County where the child was born;
4. Whether Medicaid paid for the medical expenses in connection with the mother's pregnancy and the birth of the child;
5. The date the BER was submitted to HSFS;
6. Supporting information (i.e., resources from which information was obtained); and
7. The result from applying the factors in the Birth Expense Decision Table.

3.1.2 PA/FOC Actions

Upon receipt of a CAR, the PA/FOC will:

- A. Review the birth expense information and other documentation on the NOTE screen;
- B. Use the NOTE screen documentation as well as the Birth Expense Decision Table and other information or appropriate criteria to determine whether to recommend a birth expense obligation to the court; and
- C. Document the decision and the circumstances that support the decision in the IV-D case notes on the NOTE screen.

The PA may send a BER if the SS mistakenly sent a CAR without sending a BER to HSFS. The PA may also send a BER if a case began as a non-IV-D case and became a IV-D case or if the CP arrives at the intake interview with a child who was not included on the CAR. The PA version of the BER (DCH-0491) in MiCSES is the 6070 form. The PA must not send duplicate BERs.¹⁵

3.2 Obtaining the Birth Expense Amount From MDHHS Health Services and Family Support (HSFS)

HSFS verifies the medical expenses incurred by the mother for the birth of a child when Medicaid paid the expenses.

3.2.1 Sending the *Birth Expenses Request* (BER) Form

¹⁵ Ref: Subsection 3.2.2 of this manual section.

Before sending the CAR to the PA, the SS will send a *Birth Expenses Request* (BER) form (OCS0076)¹⁶ to HSFS to verify birth expenses incurred by Medicaid.

In response, HSFS staff will complete and send to the PA the BER¹⁷ (Ref: [Exhibit 4.25E2](#)) that provides identifying information for the mother and the child and the Medicaid-paid amount of the birth expenses incurred by the mother. The birth expense amounts will be based on either a managed care rate or a fee-for-service amount.¹⁸

3.2.2 Preventing Duplicate BERs

To allow HSFS to provide timely and accurate service, HSFS asks that IV-D staff request birth expense verification only once per child. Before generating a BER, the IV-D worker must search MiCSES forms history records for a previously generated BER for the child to ensure that the IV-D program sends only one BER per child. If a BER has been generated, the IV-D worker will prevent MiCSES from sending a duplicate by:

- Changing the *Birth Expenses?* field on the *Member Demographics* (DEMO) screen for the child to “No” before sending a CAR;
- Sending the CAR to the PA;
- Entering a IV-D case note indicating that the child’s record was amended to eliminate duplicate BERs; and
- Changing the *Birth Expenses?* field back to “Yes” after sending the CAR to the PA.

3.3 Two Types of Insurance Coverage

The birth expense amounts provided by HSFS on the BER will reflect one of two types of billings, depending on the type of medical insurance that is billed to HSFS. The two basic types of insurance coverage are “managed care”¹⁹ and “fee for service.”

¹⁶ The OCS0076 is the MiCSES-generated version of the HSFS form, the *Birth Expenses Request* (DCH-0491).

¹⁷ The DCH-0491 will include an alphabetical character at the end of the form number indicating different possible responses on the BER. For example, a IV-D worker may receive a BER that has a form number of DCH-0491A. For the purposes of this policy, the form number referenced is DCH-0491.

¹⁸ Ref: Subsection 3.3 of this manual section for information on the managed care rate and fee-for-service amount.

¹⁹ Medicaid began enrolling some recipients in managed care health insurance programs in 2000. Beginning October 2008, most Medicaid recipients were required to enroll in a managed care health insurance program.

3.3.1 Managed Care Rate

MCL 722.712(3)(a) requires that the amount of the birth expense that is reasonable and necessary be determined by “using the actuarially based case rate established and certified by the department of community health or the amount of the expense certified by the department of community health.” Actuarially based case rates are referred to as “managed care rates.” Expenses that are certified by HSFS are those amounts reported on the BER.

The term “managed care” is used to describe a variety of techniques intended to reduce the cost of providing health benefits and improve the quality of care. Examples of insurance programs that use “managed care” techniques are Health Maintenance Organizations (HMOs) and Preferred Provider Organizations (PPOs). The managed care organizations determined an actuarially sound (not averaged) amount to charge for the medical expenses in connection with a mother’s pregnancy and the birth of the child. The charges are based on current and projected medical care rates and are considered reasonable and necessary. Managed care plans label this amount a “maternity case rate” (MCR).

A. The Maternity Case Rate (MCR)

The MCR is not comprised of individual charges for distinct medical services. Instead, the MCR is set for a region and birth event date independently of payments made by a managed care organization to a hospital or physician for distinct medical services. In cases involving managed care organizations, Medicaid and the provider do not interact, and HSFS does not receive a bill from the provider.

The HSFS Maternity Case Rate:

1. Includes the medical expenses in connection with a mother’s pregnancy and the birth of the child;
2. Is a fixed amount per Medicaid recipient for all types of births and births under any kinds of conditions (e.g., multiple births, natural births, complications, emergency situations, if prenatal care begins in the first or last month, etc.);
3. Is an amount calculated periodically based on a specific geographical region; and
4. Is paid to the managed care insurance provider.

HSFS will not provide detailed reports on birth expenses incurred for the mother in cases involving the MCR. HSFS and OCS have agreed that MCL 722.712 does not require bills or other paid invoices detailing expenses of births in the case of managed care. Documentation detailing individual costs and expenses for prenatal care and delivery services does not exist for cases in which HSFS paid the MCR.

HSFS pays the MCR only after it receives billing from the managed care organization.

B. MCR Certification Statement

In response to a BER, if the MCR is applicable, HSFS staff will include the following language in the certification statement at the bottom of the BER that they send to the PA:

In compliance with MCL 722.712(3)(a), the Medical Services Administration²⁰ certifies that this amount constitutes the reasonable and necessary expense for the mother in connection with her pregnancy and the birth of the child, which was paid by the State of Michigan utilizing **fee-for-service payments and** the actuarially based case rate. This rate has been developed by an actuary who is a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. The Medical Services Administration certifies that the MCRs are considered actuarially sound in accordance with generally accepted actuarial principles and practices, appropriate for the population to be covered and the services to be furnished.

OCS, IV-D program partner representatives, and HSFS agree that this expanded certification language reflects the additional steps HSFS staff have implemented to ensure accuracy in the MCR amounts they report.

Note: The **bolded** words in the certification statement above will appear in the certification statement only when HSFS has paid fee-for-service claims for Maternal/Infant Health Program expenses in addition to the MCR.

PA staff may wish to expand the support order language suggested in Subsection 8 of this manual section to include the language provided by HSFS on the BER or a similar reference to the validity of HSFS' certified statement pursuant to MCL 722.712.

²⁰ The Medical Services Administration is Michigan's Medicaid agency and is an entity within HSFS.

3.3.2 Fee-for-Service Amount²¹

In fee-for-service cases, specific services are billed by providers. In these situations, an MCR is not used. A separate payment is made to a health care provider for each medical service rendered to a patient and determined by a health care group plan.

HSFS will include the following language in the certification statement at the bottom of the BER:

In compliance with MCL 722.712(3)(a), the Medical Services Administration certifies that this amount constitutes the reasonable and necessary expense for the mother in connection with her pregnancy and the birth of the child, which was paid by the State of Michigan utilizing fee-for-service payments.

3.4 HSFS *Birth Expenses Request* Response Timeframes²²

Federal regulations require the IV-D program to establish paternity and a court order within specific timeframes.²³ Delays in the receipt of the birth expense information must not hinder the progress of paternity establishment or a court order.

HSFS staff will complete the BER and send it to the IV-D office within 28 calendar days of receipt. The BER will either include the birth expense amount or indicate that the birth expense amount is pending. If the birth expense amount is not included in the BER, HSFS will send another BER with the birth expense amount after HSFS pays the birth expenses.

Note: HSFS will not be able to provide detailed reports on birth expenses incurred for the mother.

IV-D staff responsible for establishing paternity and child support will wait for a response to the BER no longer than 28 calendar days from the date the BER is sent to HSFS. If a court hearing is scheduled and the HSFS version of the BER is not received within 28 calendar days, IV-D staff will move forward and not include a birth expense obligation recommendation in the order.

²¹ HSFS has indicated that approximately 28.7 percent of Medicaid-paid birth expenses are covered by “fee-for-service.”

²² In 2013, MDCH and OCS agreed to the timeframes discussed in this subsection during an effort to eliminate delays in receiving information needed to establish child support orders.

²³ Ref: [Section 2.20, “Court Action Referrals \(CARs\),” of the Michigan IV-D Child Support Manual.](#)

If the BER arrives after 28 calendar days but before a court hearing has occurred, a birth expense obligation may be included in the order recommendation, and the BER will be used to verify the birth expenses.

3.4.1 When the MCR Applies

Upon receiving a BER from IV-D staff, if the MCR applies to the birth event, HSFS staff will:

- A. Within 28 days, respond using the BER indicating that the birth is covered by the MCR; and
- B. When HSFS makes the MCR payment, generate another BER with the MCR payment amount and send it to IV-D staff. This BER can be sent soon after the child is born, or up to 24 months after the birth of the child.

3.4.2 When Fee-for-Service Applies

Medical service providers have up to 12 months from the delivery date to submit invoices to HSFS. Consequently, HSFS will be unable to meet the 28-day timeframe for submitting expenses.

Upon receiving a BER from IV-D staff, if the birth event is a fee-for-service case, HSFS staff will:

- A. Within 28 days, respond using the BER indicating that the birth is covered by fee-for-service; and
- B. When HSFS makes payments to providers, generate a BER with the paid birth expense amount and send it to IV-D staff. This BER can be sent soon after the child is born, or up to 15 months after the birth of the child.

HSFS considers the report of medical expenses related to a birth event complete when, at a minimum:

- The delivering hospital submits its medical invoices; and
- The physician primarily responsible for the delivery submits his/her medical invoices.

Other medical service providers may also submit additional invoices. If HSFS receives a BER after it pays the hospital and primary physician, it will report all payments it makes on the BER. HSFS will not revise its BER for payments made after it sends a BER with a birth expense amount.

3.5 Birth Expenses Recommendations

3.5.1 Procedures When the Birth Expense Amount Is Known

When HSFS has provided the birth expense amount on the BER, IV-D staff will:

- A. Review the NOTE screen to determine the following:
 - 1. Whether the mother was unmarried when the child was born;
 - 2. Receipt of Medicaid;
 - 3. County birthplace of the child; and
 - 4. Whether the BER was submitted to HSFS.
- B. Use the amount reported on the BER²⁴ from HSFS for the total birth expense amount.

Note: The PA/FOC can submit the BER completed by HSFS to the court in support of the recommended birth expense amount.

3.5.2 Procedures for Cases Where the Birth Expense Amount Is Pending

A. Reserving Birth Expenses

If HSFS does not have complete expense information when IV-D staff are ready to propose the order to the court, IV-D staff will include a clause in the order reserving birth expenses for a later date. In an effort to reduce time and resources devoted to these tasks, and to ensure other pressing IV-D priorities and timeframes are met, IV-D staff must use this approach only in cases in which HSFS certifies on a BER that birth expenses are covered by Medicaid, but that the amount is pending. IV-D staff will do all of the following:

- 1. Proceed with due diligence to establish paternity and child support pursuant to federal timeframes with or without any expenses.
- 2. If, by the time IV-D staff propose the order to the court, HSFS has not yet provided expense amounts, IV-D staff reserve the right to recover these expenses at a later date.

²⁴ OCS has asked that the State Court Administrative Office (SCAO) issue information to judges in an effort to help educate them regarding the validity of HSFS's certified expenses as identified and authorized under MCL 722.712.

IV-D staff will include the following paragraph, or one substantially similar, in the proposed order:

<Name of Payer> will pay the reasonable and necessary expenses paid by Medicaid connected to the mother's pregnancy and the birth of the child. The State of Michigan reserves the right to petition the court when the reasonable and necessary expenses are known.

Note: The proposed language will **not** identify a monthly payment or a "capped" or "estimated" debt amount. The language must be identical or substantially similar to the above paragraph. Estimated debt amounts in support orders are not compliant with federal IV-D law and create unnecessary administrative work for IV-D and HSFS staff.

3. Receive and keep in the IV-D case record BERs that identify expenses paid.²⁵

B. Replacing the Reserved Amount

IV-D staff will not administratively update birth expense amounts in an order when the amount was reserved in the original order, since an administrative update does not allow parties to introduce evidence. Instead, at the **next regularly scheduled or requested** review and modification²⁶ of the order, FOC staff will seek recovery of the birth expenses paid by HSFS in addition to any needed modifications to health insurance coverage and child support.

FOC staff will **not** seek a modification or adjustment *solely* as a result of recently identified Medicaid-paid expenses on a BER. OCS and HSFS have agreed that valuable IV-D time and resources will be reserved until other case events warrant a review and modification.

3.5.3 Cases to Exclude From Birth Expense Recommendations

The IV-D program will **not** pursue a birth expense obligation when:

- The father is incarcerated, serving a term of more than 10 years from the date of the order;

²⁵ If the IV-D case has been transferred or moved to another program partner, IV-D staff will forward the BER(s) to the appropriate office for maintenance. IV-D staff will also enter a case note on the NOTE screen in MiCSES documenting the receipt of the BER, the BER amount, and the office to which IV-D staff will forward the BER.

²⁶ Ref: [Section 3.45, "Review and Modification," of the Michigan IV-D Child Support Manual](#) for more information.

- The mother and father married prior to or after the birth of the child;
- The father received Supplemental Security Income (SSI) or long-term disability at both the time of the birth and the date the birth expense obligation was determined; or
- The father earned less than 67 percent of the federal poverty guidelines.²⁷

3.5.4 Recommendations for Birth Expense Obligations When the NCP Is Incarcerated Less Than 10 Years

In a IV-D case where the father is incarcerated less than 10 years from the date of the order, child support amounts and birth expense obligation amounts may be set aside or reserved²⁸ pending the father's release. When the birth expense obligation amount is set aside, the income used to determine the initial child support order amount will be the income used to determine the birth expense obligation.

3.6 Challenges to the Birth Expense Amount on the BER

If, during a hearing or other discussions, the NCP (or alleged father) provides evidence that undermines or challenges the certified amount provided by HSFS, IV-D staff may use their discretion as to whether to pursue birth expense reimbursement in the child support order. IV-D staff may contact HSFS for further information or other assistance by using the following contact information:

Telephone: 517-335-8760;
Fax: 517-346-9875; or
Email: mdhhs-paternity@michigan.gov

HSFS requests that IV-D staff use this contact information only for escalating concerns about birth expense amounts. IV-D workers will give this contact information only to IV-D workers who handle birth expenses.

IV-D staff must continue to follow the federally mandated time limitations for establishing child support orders in IV-D cases.²⁹

3.7 Calculating the IV-D Enforceable Amount

3.7.1 Underlying Concepts

A formula is provided to IV-D workers to determine the amount of the father's birth expense obligation that is enforceable in the IV-D program.

²⁷ Ref: Subsection 3.7.2 of this manual section.

²⁸ Ref: Subsection 3.5.2 of this manual section for information on reserving birth expenses.

²⁹ Ref: Section 2.20 of the *Michigan IV-D Child Support Manual*.

The formula for the calculation of the father's birth expense obligation in a Medicaid-paid case is based on the following concepts:

- That the amount assessed for birth expenses must not exceed 5 percent of the father's gross monthly income over 36 months; and
- That the father is not obligated to pay more of the birth expenses than his share of medical expenses as required in the MCSF.³⁰

A maximum of 5 percent of a father's gross monthly income is used to determine the "maximum obligation amount" for Medicaid-paid expenses.

The 36-month timeframe is a method for defining the length of time by which the 5 percent should apply. It is used solely for determining the maximum obligation amount in the formula. This 36-month timeframe **does not** dictate the timeframe by which the court may order repayment of the birth expense debt. 45 CFR 303.31(a)(1) and (a)(3) require that cash medical payments should not exceed 5 percent of the payer's gross monthly income or a reasonable alternative income-based numeric standard defined in state law, regulations, or court rule having the force of law or state child support guidelines. The MCSF defines the standard as 6 percent.

Special considerations are included in the formula for low-income fathers in cases with Medicaid-paid birth expenses. Fathers who fall into a low-income category (less than 150 percent of the federal poverty guidelines for a household of one) will pay less than the full 5 percent of their gross monthly income toward Medicaid-paid birth expenses.

To determine the threshold at which a graduated percentage decline would begin, OCS considered Michigan's current minimum wage rate. When a father's gross annual income falls under the 150 percent poverty guideline, the formula will apply a decreasing percentage rate.³¹ This approach considers the low-income father's ability to pay and helps prevent increased accumulation of unpaid arrearages for debts with little prospect of collection. (Ref: Exhibit 4.25E3, [Poverty Level Comparison Chart 2017](#),³² for a hard-copy representation of annual gross wage range amounts and decreasing percentage rates.) Current and prior years' Poverty Level Comparison Charts may be found on [mi-support](#).³³

³⁰ 2017 MCSF 3.01(B)

³¹ The decreasing percentage determination will always use the federal poverty guidelines **for a household of one**, regardless of the number of people in the father's household.

³² This chart was previously titled "Confinement Obligation Formula Comparison Chart."

³³ To access the Poverty Level Comparison Charts on mi-support, click "Medical and Birth Expenses" under the Central Activities tab.

The federal Department of Health and Human Services publishes the federal poverty guidelines at the end of January each year in the *Federal Register*. The guidelines are designated by the year in which they are issued. For example, the guidelines issued in January 2015 are designated the “2015 poverty guidelines.” The federal poverty guidelines are used for administrative purposes, such as determining financial eligibility for certain federal programs. Each year, OCS Program Development Division staff will publish on mi-support the updated Poverty Level Comparison Chart for that year.

3.7.2 The Calculation for the IV-D Enforceable Birth Expense Obligation Amount for Medicaid-Paid Expenses

Step 1:

IV-D staff will determine the percentage to apply by dividing the father’s gross income³⁴ by the federal poverty guidelines for the current calendar year and rounding to the nearest whole percent.

- Use 5%: Annual gross income = 150% of poverty guidelines and above.
- Use 4%: Annual gross income = 110% up to 150% of poverty guidelines.
- Use 3%: Annual gross income = 67% up to 110% of poverty guidelines.

The IV-D program will **not** seek a birth expense obligation when a father’s annual gross income is below 67 percent of the federal poverty guidelines.

Step 2:

IV-D staff will calculate the father’s maximum obligation amount by multiplying the total gross monthly income by the determined percentage, then by multiplying that total by 36 months for the maximum obligation amount.

(Father’s gross monthly income) x (percentage determined from Step 1)
x 36 months = maximum obligation amount

Step 3:

IV-D staff will determine the father’s medical expense percentage, which is based on each parent’s share of the family income pursuant to the MCSF.³⁵

³⁴ Gross income as determined using the MCSF.

³⁵ 2017 MCSF Sections 2 and 3

Note: Both parents' incomes are used in the calculations when determining the father's medical expense percentage in accordance with the MCSF. However, according to Michigan law, the mother does not have an obligation to pay her portion of Medicaid-paid birth expenses.³⁶ The state cannot seek recovery of Medicaid-paid expenses from the mother.

Step 4:

IV-D staff will determine the father's share of the Medicaid birth expenses.

(Birth expenses as determined by HSFS³⁷) x (the father's medical expense percentage determined in Step 3) = the father's share of the birth expenses

Step 5:

IV-D staff will compare the father's maximum obligation amount from Step 2 to the amount of the father's share from Step 4. The father's IV-D enforceable Medicaid-paid birth expense obligation is the lesser of the maximum obligation amount from Step 2 or the amount of the father's share from Step 4.

Example 1: Calculating the Birth Expense Obligation for Medicaid-Paid Expenses³⁸

Father's gross **annual** income = \$12,000.

Mother was on Medicaid at time of birth.

Medical expense percentage based on MCSF = 50% / 50%.

Medicaid birth expenses (per the BER) = \$6,680.

Step 1: \$12,000 annual income ÷ \$10,890 = 110% poverty guideline
(Income at 110% of poverty guideline means apply the 4% rate.)

Step 2: (\$1,000 gross monthly income) x (4%) x (36 months) = \$1,440 maximum obligation

Step 3: Father's share of medical expenses = 50%

Step 4: (\$6,680 birth expense) x (50%) = \$3,340 father's share of the expenses

Step 5: Obligation = either \$3,340 or \$1,440, whichever is less; proposed birth expense obligation = \$1,440

³⁶ MCL 722.712(3)

³⁷ This is the birth expense amount from HSFS that is derived from the BER.

³⁸ This example is based on the 2011 Federal Poverty Guidelines for a one-person household (\$10,890).

4. HSFS Response When Medicaid Will Not Pay Birth Expenses

Upon receiving a request for birth expense amounts from IV-D staff, HSFS may determine that the mother did not have Medicaid eligibility at the time of the birth or that, for other reasons, Medicaid did not and will not pay any expenses for the pregnancy and birth. If so, HSFS will include the following language in the certification statement at the bottom of the BER:

Medicaid has not and will not pay expenses for this pregnancy and the birth of the child due to the beneficiary not being eligible for Medicaid, or the beneficiary was eligible for Medicaid and the provider can no longer bill for services.

IV-D staff will proceed in establishing paternity and a child support order without a Medicaid-paid birth expense obligation in these cases.

5. Birth Expenses Not Paid by Medicaid

In IV-D cases where a parent or another person incurred medical expenses in connection with the pregnancy and birth when Medicaid did not pay the expenses, the parents have the responsibility to share the costs incurred.³⁹ The Birth Expense Decision Table does not apply to these non-Medicaid-paid expenses.

5.1 Determining the Amount Identified As Birth Expenses

For non-Medicaid-paid birth expenses, the court determines whether requested birth expenses are reasonable and necessary.⁴⁰

5.2 Calculating the IV-D Enforceable Amount of the Father's Birth Expense Obligation

The father's birth expense obligation for a non-Medicaid-paid expense is calculated using the medical expense percentage as determined using the MCSF guidelines.⁴¹ The 5 percent limitation on Medicaid-paid birth expenses does not apply to the reimbursement of birth expenses paid by the father or another individual because a person (generally the mother) has already paid the birth expenses. If the mother paid the birth expenses, she is entitled to reimbursement from the father for his share of the birth expenses based on the MCSF.

³⁹ MCL 722.712(2)

⁴⁰ MCL 722.712(2)

⁴¹ Ref: MCL 722.712(2)(a); 2017 MCSF 3.01(B).

Note: MCL 722.712(2)(c) allows the court, at the request of a person who has paid birth expenses, to order a parent to pay the person for his/her share of the birth expenses.

The formula to determine the birth expense obligation on non-Medicaid-paid cases is as follows:

Step 1:

IV-D staff will determine the father's MCSF medical expense percentage.⁴²

Step 2:

IV-D staff will determine the father's birth expense obligation.

$(\text{Birth expenses}) \times (\text{father's MCSF medical expense percentage determined in Step 1}) = \text{father's birth expense obligation}$

Example 2: Calculating the Birth Expense Obligation for Non-Medicaid-Paid Expenses

Father's **annual** gross income = \$16,000.

Mother was not covered by Medicaid at the time of birth.

Uninsured birth expenses paid by mother = \$20,000.

Step 1: Father's share of medical expense based on MCSF = 50%

Step 2: $(\$20,000 \text{ birth expenses}) \times (50\%) = \$10,000$ birth expense obligation for the father.

6. Automated Birth Expense Obligation Formula

The formulas for a father's birth expense obligation are not currently in MiCSES. Until MiCSES can incorporate these formulas, OCS provides an automated spreadsheet for calculating the birth expense obligation. The spreadsheet is in Microsoft® Excel format and is posted on [mi-support](#).⁴³ (Ref: [Exhibit 4.25E4](#) for a hard-copy representation of the spreadsheet.) Staff can input data into the worksheet, click the Results tab at the bottom of the page, and the calculation will be completed. The results page (*Birth Expense Obligation Formula* [DHS-1244]) can be printed and added to the court file. It provides the:

- Payer's name;
- Docket ID;
- IV-D case ID;

⁴² 2017 MCSF 3.01(B)(2)

⁴³ To access the spreadsheet on mi-support, click "Medical and Birth Expenses" under the Central Activities tab.

- Date of calculation;
- Payer's gross annual income;⁴⁴
- Payer's percentage of the federal poverty guideline (Step 1 for Medicaid-paid expenses);
- Payer's maximum obligation amount (Step 2 for Medicaid-paid expenses);
- Payer's medical expense percentage based on the MCSF (Step 3 for Medicaid-paid expenses; Step 1 for non-Medicaid-paid expenses);
- Father's obligation based on the medical expense percentage (Step 4 for Medicaid-paid expenses; Step 2 for non-Medicaid-paid expenses); and
- Father's recommended birth expense obligation calculated using the birth expense formula (Step 5 for Medicaid-paid expenses; Step 2 for non-Medicaid-paid expenses).

IV-D staff must use the version of the spreadsheet posted on mi-support corresponding to the year used to determine the child support order. OCS will update the spreadsheet formulas as necessary (e.g., revise annual federal poverty guideline amounts). Any updates or changes in the formulas on mi-support will not be reflected in any version of the spreadsheet that has already been downloaded and saved to a computer.

IV-D staff must enter a docket-level case note on the MiCSES NOTE screen recording the completion of the calculation and the resulting birth expense obligation to be proposed to the court.

7. Special Situations

7.1 Multiple Births

The birth expense obligation amount for the mother is determined per birth event. When a mother has a multiple birth such as twins or triplets, it is considered a single birth event. Multiple-birth situations are not the same as multiple court orders for birth expenses.

7.2 Multiple Court Orders for Birth Expenses

If a father has multiple children, he is responsible for his share of the expenses associated with the pregnancy and birth of each child. This may result in multiple orders either for several children with one mother or several children with different mothers. When a father has multiple orders for birth expenses, OCS recommends that the court consider the father's ability to pay for all the court-ordered amounts when determining a monthly birth expense repayment amount. The court may or may not be aware of all of the father's existing orders for birth expenses. However, the father is responsible for providing the court

⁴⁴ IV-D staff will use the same gross annual income amount used to calculate the birth expense obligation as was used to determine the child support order.

with information about all of his existing child support obligations when the court is determining a new payment amount.

Example 3: Multiple Births and Birth Expenses

Case situation:

While on Medicaid, a mother has two children as a result of two pregnancies with the same father. The parents have not married, and both live in Ingham County.

Case steps:

The PA seeks to establish paternity, child support and birth expenses for each child. The PA will:

- Determine the birth expenses; and
- Use the Birth Expense Obligation Formula to determine the father's obligations related to the birth of **each** child.

Case results:

The father will have two orders for birth expenses that need to be considered when a periodic payment amount is determined.

7.3 Birth Expense Obligations When There Is a Change in Custody

The custody of the child may change throughout the lifetime of the IV-D case. Birth expenses are considered shared obligations between the mother and the father. If custody of the child is awarded to the father, the father is still responsible for his share of the birth expense obligation. When custody is awarded to the father, the PA may decide not to recommend a birth expense obligation; or, the court may decide not to order a birth expense obligation. If, after the court order is established, there is a custody change between the parties without a prior modification to the court order, the parties have the option to file a motion or request a modification to reflect the change.⁴⁵ While the birth expense obligation for the father will remain, the court may consider whether to modify the periodic payment amount due.

Note: If the mother is now the NCP and Medicaid paid for the mother's prenatal and birth expenses, state law prohibits the pursuit of the obligation from the mother.⁴⁶

⁴⁵ Ref: Section 3.45 of the *Michigan IV-D Child Support Manual* for information on how parties can request a review of an order.

⁴⁶ Ref: MCL 722.712

8. Birth Expense Obligation Proposal to the Court

To ensure that an order is enforceable under the IV-D program, IV-D staff will propose that the court apply the Birth Expense Obligation Formula to the order. The following paragraph, or one substantially similar, may be used in the support order:

The birth expense obligation contained in this order is in accordance with the Birth Expense Obligation Formula, which is determined by the Michigan Office of Child Support, pursuant to MCL 400.233(p). *(NCP/Father)* shall pay *(\$X)* toward the reasonable and necessary expenses incurred by or for the mother in connection with her pregnancy or related to the birth of *(child name)*.

The text above must be followed with one of the following sentences:

- This obligation represents *(X percent)* of *(\$birth expenses)*, which is less than the maximum obligation amount defined by the formula.

Or

- This obligation is the maximum obligation amount defined by the formula, which is less than *(X percent)* of *(\$birth expenses)*. For the purposes of determining the maximum obligation amount, the monthly gross income of *(NCP/father)* is *(\$X)*.

9. Using the MiCSES Document Generation (DOGN) Screen for Orders

IV-D staff who create proposed orders using the *Establishment Uniform Support Order* (form 5085) from the MiCSES DOGN screen will find that the selectable/editable paragraphs offered do not contain the necessary elements identified in the proposed paragraphs in the subsection above.

Staff must edit the appropriate paragraphs to ensure compliance with these elements. Staff may consider creating an acceptable version of these paragraphs and using the “Save as Default” function on the MiCSES template so they can “cut and paste” the paragraphs into their proposed orders.

10. Deviations From the MCSF

The deviation reasons and requirements are outlined in MCL 552.605 and in the MCSF Manual.⁴⁷ The [SCAO memorandum, Confinement Obligation Calculations \(released October 2, 2008\)](#), provides information to judges regarding birth expense obligations issued after June 9, 2008. The memorandum explains that birth expense obligations must follow the formulas or follow the deviation requirements found in the MCSF Manual to be considered a IV-D enforceable debt.

⁴⁷ 2017 MCSF 1.04, *Deviation from the Formula*

11. Determining the Periodic Repayment Amount When Birth Expenses Are Ordered

The monthly repayment amount for birth expenses must be calculated as described in the 2017 MCSF 4.02(B)(5).

12. Entering Birth Expense Obligations in MiCSES

Birth expense orders must have accurate debt type codes to ensure that the debt amounts are calculated and enforced properly. Only the debt amounts that are calculated using the Birth Expense Obligation formula can be enforced with IV-D enforcement tools. These orders are documented in MiCSES with the debt type “CF” (Birth Expenses Paid to the Family) or the debt type “CM” (Birth Expenses Paid to the State).⁴⁸

If the court orders either a lump sum or a fixed obligation, IV-D staff will enter the order information via the *Order Preparation and Entry* (OPRE) screen⁴⁹ or the *Obligation Maintenance* (OBLG) screen.⁵⁰

12.1 Orders Entered After June 9, 2008

OCS introduced the Birth Expense Obligation Formula in June 2008. All birth expense obligations added to MiCSES after June 9, 2008, will be treated as compliant with the guidelines and the Birth Expense Obligation Formula or the deviation process. If the birth expense obligation was not calculated using the formula, or the order fails to document a deviation from the formula, IV-D staff will **not** add the obligation to MiCSES; such a debt is not IV-D enforceable.⁵¹

12.2 Orders Entered Before June 9, 2008

Orders that pre-date the Birth Expense Obligation Formula (established in June 2008)⁵² are documented in MiCSES with the following debt type codes: “MD” for Medicaid-paid birth expenses and “PC” for non-Medicaid-paid birth expenses.

⁴⁸ Ref: *Michigan IV-D Child Support Manual* [Section 5.10, “Debt Types,”](#) and [Section 5.35, “Allocation/Distribution.”](#)

⁴⁹ Ref: [Section 4.20, “Support Recommendations and Order Entry,”](#) of the *Michigan IV-D Child Support Manual* for more information on entering orders in MiCSES.

⁵⁰ Ref: [Section 5.20, “Obligation – Entry, Modification and Adjustments,”](#) of the *Michigan IV-D Child Support Manual* for information on entering support obligations in MiCSES.

⁵¹ With the MiCSES 7.3 Release (June 2011), those debt obligations meeting the criteria in Subsection 12.2.2 and coded as MD and PC were scheduled to be converted to codes CM and CF, respectively. However, MiCSES did not automatically convert these debt types to the new codes with the June 2011 MiCSES Release. MiCSES Help Desk ticket 299819 was entered to address the conversion of these obligations to CM and CF obligations, respectively.

⁵² The SCAO memorandum *Confinement Obligation Calculations* (released October 2, 2008) provides information to judges regarding birth expense obligations issued after June 9, 2008.

Orders that meet one of the following criteria are considered compliant with the Birth Expense Obligation Formula. Orders that do not meet one of the following criteria are noted as pre-dating the policies outlined in this manual section.

12.2.1 The original issue date/signed order date is on or after June 9, 2008.
(The original issue date is the earliest *Issue Date* shown on the *Support Order Entry* [SORD] screen. For orders obtained by a PA's or FOC's office, the *Legal Order Prep* [LPRP]⁵³ screen's *Order Signed Dt* becomes the initial SORD screen *Issue Date*.)

12.2.2 The original issue date/signed order date is before June 9, 2008, but the most recently entered effective date of the MD and PC debt types is on or after June 9, 2008. (The effective date is updated by the user on the OBLG screen.)

The MD and PC debts not meeting the above criteria will remain coded as MD and PC to ensure IV-D enforcement is limited. These debt types cannot be added to MiCSES.

13. Providing Support Order Information to HSFS

The Michigan IV-D agency provides certain data elements, including birth expense obligation data, to HSFS through an HSFS Data Warehouse (DW) view.⁵⁴ The DW view includes MiCSES data only on IV-D cases for which there is a current or previous medical support assignment. The HSFS DW view contains a variety of data elements that have been extracted from MiCSES and stored electronically in tables on the DW. It is updated nightly with new obligation data. By using the DW view, HSFS staff will know when IV-D staff have successfully completed an order that includes a birth expense obligation to reimburse HSFS for a Medicaid-paid birth.⁵⁵

14. Out-of-State Orders Containing Birth Expense Obligations

An obligee may request IV-D enforcement of a birth expense obligation that was obtained in another state. If this occurs, IV-D staff will ask the obligee to provide documentation showing that the other state's birth expense guideline or formula was used.⁵⁶ If the obligee is unable or unwilling to provide such documentation, and the order text does not clearly indicate a formula was used to calculate the obligation, IV-D staff will not enter the obligation in MiCSES and will not enforce that obligation through the IV-D program.

⁵³ The LPRP screen was obsoleted in June 2013.

⁵⁴ Ref: [Section 6.06, "Medical Support," of the Michigan IV-D Child Support Manual](#) for more information on the DW view.

⁵⁵ Prior to February 2016, IV-D staff had to manually inform HSFS whenever a new order for birth expenses payable to HSFS was established.

⁵⁶ It is possible that another state's tribunal may fail to follow a statewide birth expense formula.

IV-D staff will enforce any child support obligation contained within the order if a IV-D application is on file, and the obligee may pursue other avenues to enforce the birth expense obligation.

15. Refunds and Overcollections

15.1 Automated Medicaid Negative Offset Process

The Medicaid negative offset process recoups medical support and birth expense collections that were misdirected to the state for Medicaid reimbursement.⁵⁷ MiCSES will automatically recoup the misdirected funds from HSFS.

15.2 Overcollections by HSFS

After the court establishes an order that includes the father's birth expense obligation, HSFS may determine that its expenses for the delivery of the child have been otherwise reimbursed, possibly through private insurance payments.⁵⁸ Consequently, HSFS staff may determine that HSFS has been overpaid and/or that additional payments from the father are no longer necessary.

OCS and HSFS have agreed that federal regulations do not permit the IV-D program to process such "refunds" or overpayments. This is HSFS's responsibility pursuant to federal regulations at 45 CFR 302.51(c)(1) and 42 CFR 433.154 and reinforced several times in the federal OCSE's AT 08-08⁵⁹ and the attached final rule and comments.

Therefore, IV-D staff will not process or accept refund payments or requests from HSFS. HSFS staff will handle such situations without IV-D involvement and will issue payments they have received to the appropriate recipient according to HSFS regulations and policies.

If HSFS determines that future (unpaid) payments are no longer desired or requested from the obligated father, HSFS staff will complete and sign a satisfaction of judgment or other credit affidavit required by the court. Such a document will allow FOC staff to reduce the birth expense debt amount

⁵⁷ For more information about the Medicaid negative offset process, reference [IV-D Memorandum 2017-013, Automated Medicaid Negative Offset Process for the Recoupment of Incorrect Medical Support Paid to the State](#), [IV-D Memorandum 2017-009, Discontinued Use of the Support Collection Payment Request \(DHS-820\) for Medical Support and Birth Expense Refunds](#), and [Section 5.40, "Public Assistance Impacts: Unreimbursed Grant, Linking, and Pass-Through \(Client Participation Payment\)," of the Michigan IV-D Child Support Manual](#).

⁵⁸ HSFS is required to actively pursue all methods for reimbursing its expenses.

⁵⁹ Ref: [Final Rule: Child Support Enforcement Program Medical Support](#), 73 Federal Register 140, 42146-42442.

recorded in MiCSES. Future OCS-released materials will provide further policy about this process.

16. Surcharge

Birth expense obligations cannot be surcharged.⁶⁰ MiCSES prevents birth expenses from being surcharged.⁶¹ Consistent with this, birth expense obligations ordered and entered in MiCSES will not be surcharged on the debt types CM (for Medicaid-paid birth expenses) and CF (for non-Medicaid-paid birth expenses).

17. Federal and State Tax Refund Offset Intercept on Birth Expense Obligations

Birth expense amounts calculated using the state guidelines are eligible for both federal and state tax refund offset. These amounts are included in the definitions of past-due and overdue support amounts. Federal regulations require that states have procedures to collect past-due and overdue support through state⁶² tax refund offset.

OCSE provides clarification regarding medical support enforcement in PIQ-07-01. OCSE states that federal income tax refund offset may be requested on past-due medical support, including cash medical support or judgments for birth expenses.⁶³

Debts established by the court after the establishment of the Birth Expense Obligation Formula in 2008 are enforceable using all IV-D enforcement tools, including federal and state tax refund offset. Birth expenses entered in the CM and CF debt types are considered in compliance with the IV-D regulations and will be submitted for federal and state income tax refund offset.

Debts established by the court before the establishment of the Birth Expense Obligation Formula in 2008 remain enforceable but:

- Remain low in the allocation and distribution priorities identified in Exhibit 5.35E1 of the *Michigan IV-D Child Support Manual*; and
- Are exempt from federal and state tax refund offset.

Birth expenses entered in the MD and PC debt types are currently not in compliance with IV-D regulations. Consequently, **no** MD or PC debt types will be submitted for federal income tax refund offset. Federal tax refund offset enforcement was stopped

⁶⁰ Ref: [Section 5.75, "Surcharge," of the Michigan IV-D Child Support Manual](#) for more information on surcharges.

⁶¹ IV-D staff were notified of this MiCSES change in two separate email notifications: one on September 26, 2008 for the MD (Medical Support – Medicaid) debt type and one on October 17, 2008 for the PC (Payee Birth Expenses) debt type.

⁶² 45 CFR 302.70

⁶³ OCSE PIQ 07-01

on all birth expense obligations (entered as MD or PC debt types) effective November 1, 2009.⁶⁴

SUPPORTING REFERENCES:

Federal

42 CFR 433.154
45 CFR 302.51(c)(1)
45 CFR 302.56
45 CFR 302.70
45 CFR 302.80(b)
45 CFR 303.31(a)(1)
45 CFR 303.31(a)(3)
45 CFR 303.72

OCSE AT-08-08
OCSE AT-93-04
OCSE PIQ 07-01

State

MCL 400.233
MCL 400.233(p)
MCL 552.452
MCL 552.502a
MCL 552.517e
MCL 552.519(3)(a)(vi)
MCL 552.602(ff)
MCL 552.603a
MCL 552.603a(1)
MCL 552.605
MCL 722.711-722.730
MCL 722.1461-722.1475

2017 MCSF Manual
SCAO ADM 2004-04
SCAO ADM 2010-09
SCAO memorandum *Confinement Obligation Calculations* (released October 2, 2008)

REVISION HISTORY:

[IV-D Memorandum 2017-014](#)

IV-D Memorandum 2016-004
IV-D Memorandum 2011-008

⁶⁴ Ref: *Michigan IV-D Child Support Manual* Sections 5.10 and 5.35; [Section 6.21, "Tax Refund Offset"](#); [Section 6.24, "Passport Denial/Restriction"](#); and [Section 6.27, "Liens - FIDM/MSFIDM."](#)